

Message Text

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TO AMCONSUL HONG KONG

INFO AMEMBASSY BANGKOK

AMEMBASSY JAKARTA

AMEMBASSY MANILA

AMEMBASSY KUALA LUMPUR

AMEMBASSY SEOUL

AMEMBASSY TAIPEI

AMEMBASSY TOKYO

AMEMBASSY CANBERRA

AMEMBASSY SINGAPORE

AMEMBASSY WELLINGTON

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FOLLOWING REPEAT STATE 161944 ACTION OECD PARIS 30 JUNE 76 AND
REPEATED TO ALL OECD CAPITALS 1 JULY 76.

QUOTE

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E.O. 11652: N/A

TAGS: EINV, OECD

SUBJECT: OECD INVESTMENT PACAKAGE

REF: KORP/WITTING TELCOM OF JUNE 28

1. BELIEVE MATERIAL YOU HAVE IN HAND WILL BE FULLY

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ADEQUATE TO PROVIDE BASIS FOR AMBASSADOR TURNER TO

RESPOND TO QUESTIONS HE WILL BE RECEIVING REGARDING OECD INVESTMENT PACKAGE. IT MAY BE USEFUL, HOWEVER, TO NOTE A FEW OF THE MOST COMMON HOSTILE QUESTIONS WHICH WE HAVE GOTTEN FROM BUSINESS AUDIENCES:

QUESTION: WHY HAS THE USG PROCEEDED WITH SUCH HASTE IN SIGNING AN OECD INVESTMENT PACKAGE? EVEN THOUGH YOU HAVE BEEN CONSULTING THROUGH THE ADVISORY COMMITTEE, MANY U.S. BUSINESSES HAVE BECOME AWARE OF THE OECD NEGOTIATIONS QUITE RECENTLY AND DID NOT HAVE SUFFICIENT TIME TO REACT TO THEM AND TO GET THEIR VIEWS REFLECTED.

ANSWER: I WOULD NOTE FIRST THAT THIS INVESTMENT PACKAGE WAS NEGOTIATED OVER A PERIOD OF MORE THAN EIGHTEEN MONTHS DURING WHICH WE CONSULTED WITH AND SOUGHT THE VIEWS OF THE U.S. PRIVATE SECTOR, NOT ONLY THROUGH THE ADVISORY COMMITTEE BUT ALSO THROUGH OTHER CHANNELS. IT IS NOTEWORTHY IN THIS REGARD THAT WE CONSULTED ON NEGOTIATING DRAFTS WITH THE ADVISORY COMMITTEE ON SOME FOUR OCCASIONS DURING THE COURSE OF THE YEAR AND THESE DRAFTS WERE DISTRIBUTED QUITE BROADLY THROUGH SUCH ORGANIZATIONS AS THE CHAMBER OF COMMERCE, THE NATIONAL ASSOCIATION OF MANUFACTURERS AND THE U.S. COUNCIL OF THE CHAMBER OF COMMERCE. IN FACT, MANY IMPROVEMENTS IN THE DRAFT WERE MADE AS A DIRECT RESULT OF COMMENTS AND SUGGESTIONS MADE BY U.S. BUSINESS AND OTHER PRIVATE SECTOR INTERESTS. BY AND LARGE, THE REACTION OF MEMBERS OF THE BUSINESS COMMUNITY HAS BEEN ONE BOTH OF APPRECIATION FOR THE EXTENSIVE CONSULTATION PROCESS AND OF GRATIFICATION THAT SUCCEEDING DRAFTS OF THE DECLARATION INCORPORATED IMPROVEMENTS REFLECTING MANY OF THEIR SUGGESTIONS.

WE WERE CONVINCED THAT THE TIME HAD COME TO AGREE WITHIN THE OECD ON A BALANCED AND CONSTRUCTIVE SET OF UNDERTAKINGS IN THE INVESTMENT FIELD WHICH WOULD INCLUDE RECOMMENDED GUIDELINES FOR MNES. THERE IS NO REASON TO BELIEVE THAT FURTHER DELAY WOULD HAVE RESULTED IN A BETTER AGREEMENT. FURTHER, IF THE OCCASION FOR THE OECD GOVERNMENTS TO ADDRESS THE SUBJECT AT THE MINISTERIAL LEVEL IN JUNE WERE MISSED, THE OPPORTUNITY FOR OBTAINING AGREEMENT

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ON SUCH AN INVESTMENT PACKAGE MIGHT WELL HAVE BEEN LOST FOR THE FORESEEABLE FUTURE.

QUESTION: NOW THAT WE HAVE GIVEN OUR SUPPORT TO THIS CODE EXERCISE HAVEN'T WE COMPROMISED OUR ABILITY TO RESIST A MUCH MORE RESTRICTIVE CODE IN THE UN? THAT IS, ISN'T THE OECD CODE JUST A FIRST STEP TOWARD INCREASING INTERNATIONAL REGULATION AND HARASSMENT OF THE MULTINATIONAL

CORPORATION?

ANSWER: ON THE CONTRARY, WE BELIEVE THAT THE OECD INITIATIVE WILL BE HELPFUL IN UNDERLINING THE RESOLVE OF THE DEVELOPED COUNTRIES TO INSIST THAT ANY CODE OF CONDUCT DEALING WITH THE BEHAVIOR OF MULTINATIONAL CORPORATIONS BE A BALANCED AND FAIR ONE THAT DEALS WITH THE RESPONSIBILITIES OF GOVERNMENTS AS WELL AS OF COMPANIES. IN EFFECT, WE HAVE BROUGHT TOGETHER THE VIEWS OF THE OECD COUNTRIES ON THESE ISSUES SO THAT THEY CAN BE PRESENTED IN A COHERENT AND CONSTRUCTIVE MANNER IN FORUMS IN WHICH THESE MATTERS ARE ADDRESSED BETWEEN THE DEVELOPED AND DEVELOPING COUNTRIES. THUS, WHILE THE OECD INVESTMENT PACKAGE ADDRESSED PROBLEMS ON INVESTMENT IN THE DEVELOPED WORLD AND IS INTENDED TO DEAL WITH ACTIVITIES AMONG THEM, IT WILL ALSO HAVE THE EFFECT OF FAVORABLY INFLUENCING THE DIALOGUE BETWEEN DEVELOPED AND DEVELOPING COUNTRIES ON THESE ISSUES.

QUESTION: WHY IS THE USG ASKING U.S. COMPANIES TO GO BEYOND LEGISLATIVE REQUIREMENTS, AS FOR EXAMPLE, IN THE INFORMATION DISCLOSURE PROVISION?

ANSWER: THE GUIDELINES FOR MULTINATIONALS ARE VOLUNTARY AND DO NOT SEEK IN ANY SENSE TO SUPERSEDE NATIONAL LAWS OR EXISTING INTERNATIONAL LAW. IN THOSE INSTANCES, SUCH AS INFORMATION DISCLOSURE, WHERE THEY DO CALL FOR A RESPONSE WHICH IN SOME INSTANCES MAY BE BEYOND WHAT IS REQUIRED BY NATIONAL LAWS, E.G., THE SUGGESTED REGIONAL BREAKDOWN OF CERTAIN DATA, IT IS FOR THE PURPOSE OF RESPONDING POSITIVELY TO PUBLIC CONCERNS RELATED TO THE INTERNATIONAL STRUCTURE OF THE MULTINATIONAL. IN THESE INSTANCES IT IS MADE QUITE CLEAR THAT EACH MULTINATIONAL

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MUST BE THE JUDGE OF THE APPROPRIATE RESPONSE, TAKING INTO CONSIDERATION ITS OWN CIRCUMSTANCES.

QUESTION: WON'T U.S. FIRMS BE DISADVANTAGED SINCE THEY WILL TEND TO TAKE THE GUIDELINES VERY SERIOUSLY AND COMPLY WITH THEM WHILE MULTINATIONALS BASED IN OTHER OECD COUNTRIES WILL TEND TO IGNORE THEM?

ANSWER: SINCE THEY REPRESENT WHAT THE OECD GOVERNMENTS COLLECTIVELY BELIEVE ARE HIGH STANDARDS OF GOOD BUSINESS STANDARDS, WE BELIEVE THAT THESE GUIDELINES WILL BE TAKEN QUITE SERIOUSLY BY ENTERPRISES IN ALL OF THE OECD COUNTRIES. FURTHER, SINCE U.S. MULTINATIONALS ARE ALREADY IN THE VANGUARD AMONG THOSE MULTINATIONALS ADHERING TO HIGH BUSINESS STANDARDS, THE GUIDELINES WILL

IN FACT INVOLVE LESS IN THE WAY OF MODIFIED BEHAVIOR FOR THEM. WITH REGARD TO INFORMATION DISCLOSURE, FOR EXAMPLE, MULTINATIONALS BASED IN THE U.S. ALREADY ARE REQUIRED TO MEET THE HIGHEST DISCLOSURE STANDARDS IN THE WORLD. THUS, THE EFFECT OF THE DISCLOSURE PROVISION IN THE GUIDELINES WILL BE TO INFLUENCE FOREIGN BASED MULTINATIONALS TO COME CLOSER TO DISCLOSURE STANDARDS THAT ESSENTIALLY ARE ALREADY OBSERVED BY U.S. ENTERPRISES.

QUESTION: WHAT ACTION WILL USG TAKE AND WHAT RESPONSE IS EXPECTED FROM COMPANIES?

ANSWER: THE USG HAS RECOMMENDED OBSERVANCE TO COMPANIES IN THE OECD MINISTERIAL ACTION AND WILL DO THE SAME NATIONALLY. A RESPONSE AND WHAT FORM IT TAKES IS UP TO COMPANIES. THE FIRST DECISION COMES IN DISCLOSURE WHERE COMPANIES HAVE TO CONSIDER WHETHER OR NOT TO ALTER ANNUAL REPORTS, WHERE NECESSARY, TO MEET OECD STANDARD, PARTICULARLY FOR REGIONAL BREAKDOWN OF SEVERAL FINANCIAL ITEMS. KISSINGER UNQUOTE KISSINGER

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